

defendant had followed this standard of care, by providing a call device and instructing plaintiff in its use. If the jury had believed plaintiff's testimony that she had not been so instructed, a departure from the required standard of care established by defendant's experts would have been shown and a verdict of the jury for plaintiff warranted. Because of the conflict in testimony of plaintiff and defendant on this one factual question, the Supreme Court held that the trial judge erred in directing a verdict for defendant. Accordingly, the judgment was reversed.

The Court did not rule on the applicability of the doctrine of *res ipsa loquitur* (the thing speaks for itself). This is a rule of evidence which excuses plaintiff in malpractice actions based on negligence from affirmatively proving the defendant's negligence. In certain instances the courts have held that where the damaging results of the acts of a defendant are so obviously apart from the normal course of events, the burden is placed upon the defendant to explain the consequences of his treatment. A discussion of this phase of the case is contained in Medical Jurisprudence, March, 1943 issue of CALIFORNIA AND WESTERN MEDICINE.

## LETTERS†

### Concerning Smallpox Outbreak in California:

CALIFORNIA STATE DEPARTMENT OF PUBLIC HEALTH  
Bulletin: February 11, 1944.

As reported last week, smallpox is with us again. In Fresno County there have been, to date, fourteen cases with one death. One of the patients was taken ill in a rooming house, and in seeking medical attention went to the county hospital on the bus. It has been impossible to locate all of the contacts.

So far the cases have been confined to Fresno County, but the type of exposure occurring in this rooming house and on the bus may lead to cases appearing elsewhere.

Health officers and physicians should keep smallpox in mind. If cases, or even suspected cases, appear in your territory, kindly advise us by telephone or teletype.

Bulletin: February 18, 1944.

#### ATTENTION HEALTH OFFICERS

On February 11, we notified you that a case of smallpox developed in a rooming house in Fresno.

It has been impossible to identify all of the contacts, so we wish to call your attention to the fact that this case is one of *confluent smallpox* and that with an incubation period of fourteen days those itinerants exposed in that rooming house for transients from February 3 to 7, will begin to show symptoms during the next few days. You are urged to be on the lookout for these individuals.

Inasmuch as this outbreak is due to a highly virulent strain of smallpox, we recommend that vaccination programs be initiated.

It is well to warn the public that only a recent, successful vaccination protects against this highly infectious strain.

(Signed) CALIFORNIA STATE DEPARTMENT  
OF PUBLIC HEALTH.

### Concerning War Loan Drive—San Diego Report: SAN DIEGO COUNTY MEDICAL SOCIETY

February 3, 1944.

Dear Doctor Kress:

Your communication from the Council of the C. M. A. regarding participation of the county medical societies as

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units in the present War Loan Drive was considered at our local Council meeting February 1.

It was the feeling of the Council that it was too late to do any effective organizing for a drive to sell bonds among our members. A hurried survey showed that a majority of the men had already bought or had other contacts through which they were buying. However, the Council voted to buy \$3,500 in the name of the Society.

Sincerely yours,

(Signed) W. H. GEISTWEIT, JR., M. D.,  
Secretary.

### Concerning Medical Dues—An Item from "The Bulletin of The Los Angeles County Medical Association":

*Dues—A Letter and an Answer*  
(COPY)

February 2, 1944.

Los Angeles County Medical Association  
1925 Wilshire Boulevard  
Los Angeles 5, California

Gentlemen:—Last year I criticized the amount of dues required by the California State and Los Angeles County Medical Associations. Indicating that such criticism was prevalent, the letter was answered by a multigraphed form letter showing expenditures. Of the expenditures, something like \$75,000 went for the ill-timed and ill-fated "Basic Science Law" support.

Having no such item for 1943, it would interest me to know how the money was spent for that year. I consider this check the highest price I have paid for the least service rendered in my expense account for 1943.

Very truly yours,

(Reply: Copy)

Dear Doctor:—In compliance with your request, a copy of the Association's statement of income and expenditure for 1943, is being mailed to you.

Although more than 1,500 members have paid their dues for 1944, yours is the only complaint thus far received that dues are excessive. Nevertheless, you are entitled to your opinion, which I would, if possible, like to change.

First, \$20 of your \$37.50 goes to the California Medical Association to be expended as the House of Delegates and Council see fit. Included in this amount is a subscription to CALIFORNIA AND WESTERN MEDICINE. The expenses of the State office and the cost of the annual convention must be met. In the past the State Association has expended large sums for various purposes, such as the Dodd survey, public relations campaigns, loans to California Physicians' Service, expense of campaigns to defeat initiative propositions inimical to the public health, and recently it made a contribution to the newly formed United Public Health League. The wisdom of some of these expenditures is perhaps debatable in retrospect, but your elected representatives ordered them to be made and they did so in all sincerity and good faith. Honestly now, how much time and effort did you personally devote to convincing the electorate that the Basic Science Bill was desirable? How many speeches did you make, and how many letters did you write?

The remaining \$17.50 goes to the County Medical Association, which promptly refunds \$5 to your local branch for its expenses. The remaining \$12.50 supports the building at 1925 Wilshire Boulevard, where about one hundred medical programs are presented each year, the library with its able staff and the permanent office personnel who render innumerable services to the membership, some of which